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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,589	04/27/2006	Andreas Schmidt	2003P16318	8190
24131	7590	08/10/2009	EXAMINER	
LERNER GREENBERG STEMER LLP			VAUGHAN, MICHAEL R	
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			2431	
			MAIL DATE	DELIVERY MODE
			08/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,589	Applicant(s) SCHMIDT ET AL.
	Examiner MICHAEL R. VAUGHAN	Art Unit 2431

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 July 2009.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 22-46 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08e)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **7/06/09** has been entered.

Claims 22-46 through are pending. Claims 22-24, 28-32, 43,45, and 46 have been amended.

Response to Amendment

Drawings

Claim Objections

Claims 22, 29, 30, and 46 are objected to because of the following informalities:
As per claims 22 and 46, in the processing limitation, "an encrypted user data object" should be "the encrypted user data object".

As per claims 29 and 30, it appears the since the invention is directed toward transmitting encrypted user data objects, that the useable user data object should be the same usable encrypted data object found in claims 31.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-46, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 22-46, the preamble recites the act of transmitting encrypted user data object but this step is missing, and therefore the claims are unclear and confusing. Furthermore, the preamble directs the claimed matter as a method/system which transmits encrypted user data objects to a first terminal. However the last limitation merely stops at "processing" the encrypted data object. There is no explicit disclosure of the actual transmission or arrival of the encrypted user data object at the first terminal. As a result, the scope is indefinite.

As per claim 29, it appears a data provisioning component is defined for the second time. Examiner is unable to definitively determine what this second data

provisioning component is because it does not seem to be the same as the already defined data provisioning component. If this is a different entity, it needs to be distinguished from the former. Appropriate correction is required.

Response to Arguments

Applicant's arguments filed 7/6/09 have been fully considered but they are not persuasive. The following interpretation of the prior art is solely based on the current set of claims and arguments submitted by the Applicant. It is not the only possible interpretation of the prior art and may be altered when/if the claims and/or arguments change.

Examiner appreciates the amendments which go along way in clearly defining the scope of the invention. As listed above, there are a few more issues which would further clear up any remaining deficiencies. Applicant has argued that Mostafa and Kobata fail to teach a reference for checking a usability of the encrypted user data object. Kobata explicitly teaches the use of DRM containers which determine a user's right to access content (0013-0015). In 0015, Kobata teaches a recipient's digital right may be contained in a document and then stored in a database so that it may properly determine the rights of an intended user (0018). Naturally when content is sent it has attached to it a DRM header which yields information about the content. The server then uses this information in conjunctions with the user's rights stored in the database to check the usability of the content for that user.

With respect to the arguments concerning the decryption by the switching component, Examiner provides the following rebuttal. Using Fig. 2 or 3 of Mostafa as a guide, Examiner interprets the switching component as the MMS relay A and the data provisioning component as MMS Server A. On page 3 - lines 20-23, Mostafa teaches that if the recipient user is on the same network as the sender, MMS relay A would be responsible for sending the data to user agent B. This is slightly different than what Fig. 2 where user agent B belongs on another network. In the example of when both user A and B are on the same network, MMS relay A would provide the same functionality as the switching component in the claims. It is the MMS Server A which provides decryption and translated, not the switching component. It is not clear from the claims whether or not the data provisioning component is able to decrypt the encrypted user data object. That point is moot, because the claims only require that the switching component need not be able to decrypt the user data object. The combination of Mostafa and Kobata do not require the switching component to decrypt the data object because it knows where to send the packet for processing and knows the destination address by its header information. Assuming the User Agent B is on the same network, it would have sent information (profile) about itself through the MMS relay A to the server so that it can store its usability [rights] (page 7, lines 25-26 of Mostafa) in the database as taught by Kobata (0018). When combining Mostafa with the security features of Kobata, it is obvious that the MMS server A acquires the functionality of the server in Kobata (0018). The server then uses the profile of the recipient with the stored

right of the recipient to make a determination if the user has both the capability and the right to use the content.

Lastly all requests are relayed by the MMS relay A to the MMS Server B. Any decisions made by the server are sent back through the relay to the recipient (pg. 6, lines 20-25).

While Examiner respectfully disagrees with Applicant's interpretations of the prior art, it may be beneficial to the prosecution of this application to conduct an interview at the Applicant's convenience. Examiner has also listed some more references which seem pertinent to the application on the enclosed PTO-892.

Claim Rejections - 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/43414 to Mostafa in view of USP Application Publication 2002/0077986 to Kobata et al, hereinafter Kobata.

As per claim 22, Mostafa teaches a method of transmitting user data objects [media content] to a first telecommunications terminal, which comprises the following steps:

in a switching component [MMS Replay A] of a telecommunications network, providing an user data object to be transmitted to the first telecommunications terminal with a reference [address] (pg. 7, lines 6-7);

determining, with the switching component, a profile [recipient data] (pg. 7, line 23) relating to capabilities of the first telecommunications terminal to process a user data object (pg. 6, lines 19-20);

transmitting, with the switching component, a request together with the determined profile of the first telecommunications terminal to a data provisioning component [MMS Server] in accordance with an address contained in the reference for checking whether the user data object to be transmitted is suitable for processing by the first telecommunications terminal (pg. 7, lines 25 and pg. 17, lines 6-8);

transmitting, from the data provisioning component to the switching component, information relating to a result of the check on the suitability of the user data object to be transmitted for the first telecommunications terminal (pg. 6, lines 21-23 and pg. 19, line 5); and

processing, with the switching component, a user data object in accordance with the information relating to the check, and notifying the first telecommunications terminal thereof (pg. 7, line 5).

Mostafa is silent in explicitly disclosing that the user data object is encrypted and a reference for checking a usability of the user data object for the first telecommunications terminal. Kobata teaches a similar message relay system in which the user data object are encrypted and include digital rights assigned to them (0072). Kobata teaches the usability of content [DRM] for particular users is stored in database (0013-0018). As one of ordinary skill in the art would know, encryption is essential if one wants to protect the content from unauthorized users. Encrypting the user data objects of Mostafa would ensure users could not intercept them and thereby cheat the system of not having to subscribe to the objects. DRM is an extension of the security afforded to encryption, by separating the right to use the encrypted content from the content itself. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to encrypt the objects of Mostafa and store the rights of the objects in the server because it would increase the security of the system.

As per claim 23, Mostafa teaches the encrypted user data object and the reference are provided in a container object (pg. 3, lines 17).

As per claim 24, Mostafa teaches transmitting the encrypted user data object from a second telecommunications terminal to the switching component, for forwarding to the first telecommunications terminal (pg. 17, lines 5-10).

As per claim 25, Mostafa teaches the step of determining the profile relating to the capabilities of the first telecommunications terminal comprises sending a query to a

database of the telecommunications network wherein the terminal device characteristics are stored [stored in MMS server] (pg. 18, lines 26-27 and pg. 19, lines 24-30).

As per claim 26, Mostafa teaches determining the profile relating to the capabilities of the first telecommunications terminal by sending a query to the first telecommunications terminal (pg. 20, line 5-10).

As per claim 27, Mostafa teaches the address contained in the reference includes a URL (pg. 20, line 11).

As per claim 28, Mostafa teaches the encrypted user data object to be transmitted is also transmitted to the data provisioning component in addition in the request of the switching component to the data provisioning component (pg. 18, line 22).

As per claim 29, Mostafa teaches if the result of the check by the data provisioning component is negative, the information to the switching component contains a pointer to a data provisioning component from which the switching component can request a suitable user data object in accordance with the profile of the first telecommunications terminals (pg. 7, lines 26-27 and pg. 19, line 10).

As per claim 30, Mostafa teaches if the result of the check by the data provisioning component is negative, the information to the switching component contains a suitable user data object (pg. 7 lines 26-27 and pg. 19, line 12).

As per claim 31, Mostafa teaches the first telecommunications terminal, in response to the notification of the switching component concerning the provision of a suitable user data object, transmits a request for the suitable encrypted user data object

to be sent to the switching component, and the switching component thereupon sends the suitable encrypted user data object to the first telecommunications terminal (pg. 7, lines 6-7).

As per claim 32, Mostafa teaches transmitting data to and from at least one of the first and second telecommunications terminals via an air interface (pg. 2, lines 12-13).

As per claim 33, Mostafa teaches at least one of the first and second telecommunications terminals comprise a radio module (pg. 2, lines 12-13).

As per claim 34, Mostafa teaches at least one of the first and second telecommunications terminals is a mobile telephone, a cordless telephone, or a portable computer. (pg. 2, lines 12-13).

As per claim 35, Mostafa teaches transmitting messages to and from at least one of the first and second telecommunications terminal using WAP protocols or Hypertext Transfer Protocol [URL] (pg. 20, line 11).

As per claim 36, Mostafa teaches the first telecommunications terminal is part of a first telecommunications network (pg. 2, lines 12-13).

As per claim 37, Mostafa teaches the first telecommunications network is a mobile radio network (pg. 2, lines 12-13).

As per claim 38, Mostafa teaches the first telecommunications network operates in GSM or UMTS standard (pg. 2, line 17).

As per claim 39, Mostafa teaches the switching component forms a part of a second telecommunications network that is connected to the first telecommunications network (Fig. 2).

As per claim 40, Mostafa teaches the second telecommunications network is a telecommunications network based on Internet protocols (pg. 20, lines 10-13).

As per claim 41, Mostafa teaches the second telecommunications network is a telecommunications network based on Hypertext Transfer Protocol (pg. 20, lines 10-15).

As per claim 42, Mostafa teaches the first and second telecommunications networks are connected to one another by way of a WAP gateway (pg. 2, lines 25-29 and pg. 17, lines 21-26). It is inherent that the relays are performing the function of a gateway more particularly MMC uses WAP "push".

As per claim 43, Mostafa does not explicitly teach transmitting a rights object containing a key and usage rights for the assigned user data object. Kobata teaches following receipt of the encrypted user data object, transmitting a rights object containing a key and usage rights for the assigned user data object (0108). Not only does Kobata teach encrypted data objects but also supplies a set of digital right governing the use of the encrypted data objects. The use of digital rights is well known in the art of security. Digital rights give the owner of such rights, control over how an end-user accesses the data objects. Mostafa teaches the use of subscription based control of data objects. This is one form of usage rights. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to transmit a rights object to the recipient because it would allow the creator of the content some control

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over how the content is used. Encryption is not enough to adequately protect content from piracy.

As per claim 44, Mostafa teaches the data provisioning component is a server of a content provider (pg. 1, lines 18- 22).

As per claim 45, Mostafa teaches the user data object contains text information, audio information, video information, an executable program, a software module, or a combination thereof (pg. 1, lines 24-27).

As per claim 46, Mostafa teaches a switching component, a data provisioning component, and at least one first telecommunications terminal (Fig. 2);

a switching component [MMS Replay A] of a telecommunications network, providing an user data object to be transmitted to the first telecommunications terminal with a reference [address] (pg. 7, lines 6-7);

determining, with the switching component, a profile [recipient data] (pg. 7, line 23) relating to capabilities of the first telecommunications terminal to process a user data object (pg. 6, lines 19-20);

transmitting, with the switching component, a request together with the determined profile of the first telecommunications terminal to a data provisioning component [MMS Server] in accordance with an address contained in the reference for checking whether the user data object to be transmitted is suitable for processing by the first telecommunications terminal (pg. 7, lines 25 and pg. 17, lines 6-8);

transmitting, from the data provisioning component to the switching component, information relating to a result of the check on the suitability of the user data object to be

transmitted for the first telecommunications terminal (pg. 6, lines 21-23 and pg. 19, line 5); and

processing, with the switching component, a user data object in accordance with the information relating to the check, and notifying the first telecommunications terminal thereof (pg. 7, line 5).

Mostafa is silent in explicitly disclosing that the user data object is encrypted and a reference for checking a usability of the user data object for the first telecommunications terminal. Kobata teaches a similar message relay system in which the user data object are encrypted and include digital rights assigned to them (0072). Kobata teaches the usability of content [DRM] for particular users is stored in database (0013-0018). As one of ordinary skill in the art would know, encryption is essential if one wants to protect the content from unauthorized users. Encrypting the user data objects of Mostafa would ensure users could not intercept them and thereby cheat the system of not having to subscribe to the objects. DRM is an extension of the security afforded to encryption, by separating the right to use the encrypted content from the content itself. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to encrypt the objects of Mostafa and store the rights of the objects in the server because it would increase the security of the system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. VAUGHAN whose telephone number is

(571)270-7316. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:00pm, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. V./

Examiner, Art Unit 2431

/William R. Korzuch/

Supervisory Patent Examiner, Art Unit 2431